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2005

# William Sherratt v. Clint Friel : Reply Brief

Utah Court of Appeals

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William Sherratt; Appellant Pro Se.

Unknown.

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IN THE UTAH COURT OF APPEALS

William Sherratt,  
pro se, appellant,

Reply to Appellee  
Brief

v.  
Clint Friel, et al,  
Appellee.

CASE 20050108-CA

Appellant hereby files this  
Reply to Appellees Brief.

ARGUMENT

As stated by Respondent/  
appellees Brief, pg. 2, Rule 12(b)  
(6) concerns the sufficiency  
of the pleadings. The  
District Court ruling becomes  
a self-fulfilling declaration  
that Appellant's claim was  
"dismissed for technical  
deficiencies about which [he]  
had no way of knowing."  
(Appellee Brief, pg. 6, citing  
Lewis v. Casey, 518 U.S. 343 (1994) at  
351.

THE DISTRICT COURT ruled, and  
10/17

therefore admits at the same time, that the petition meets the requirement of actual injury, because it was legally insufficient to sustain the action.

Appellant still does not know what was lacking, or how to correct that failure.

The court's ruling that the petition failed to state a claim is by definition a ruling that the petition was dismissed for insufficiency not merit. Therefore the court should have caught the redundancy of that ruling.

This clearly shows actual injury is occurring during the court's ruling.

If Appellant had access to a legal library, he could learn what mistake he made.

If the court had recognized the prejudice occurring during the issuance of the Ruling, (however, prejudice is rarely seen by the actor) denial of access was shown.

The irony of this event is crystal clear: Appellant failed to claim injury, so we will injure his claims by termination. We will kill the claims because it can't show an injury.

That's the same as euthanizing an unconscious person because they can't show they are injured, or claim injury.

The court has a duty to act as the "Doctor" in this case, and recognize that the injury is self-evident when a petition fails due to insufficiency, not merit.

If an adequate law  
3912

library, or legal access  
existed in the UTAH STATE  
prison, legal sufficiency  
could be learned, and  
compliance with Rules  
would be more possible  
than it is now.

Further, Appellees Brief on  
pg. 6 + 7, contain statements  
clearly made in bad faith.

A Motion to suspend The Rules  
for Good Cause, when  
granted, shows there was  
prejudicial damage which  
in the interest of justice  
required the Rules to be  
suspended by this Court.  
(See Exhibit #24 Petition, + #25)

Corrective Action, by definition,  
declares wrongful action  
has preceeded it.

The Brief also plainly and  
intentionally lays the blame  
for using the property system  
on Appellant. All exhibits and  
mail property handling forms  
support Appellants claims that

prison staff required the use of the property system. (See Exhibit 5, 1953 #4, 5, 6, + 7. Petition) Appellant had no choice - if he wanted his petition mailed, he was required to comply with prison staffs directives, and then prison staff refused TO MAIL them. (See Exhibits #1 thru #7, Petition.)

Further, as explained in the petition (and as should be apparent to any person filing an initial Brief in the U.S. Supreme Court) a case number CANNOT be provided before it is assigned. Appellant believes that this is a long-standing and well known rule of the court, and any lawyer would know that. Trying to discredit Appellants claims in this manner shows bad faith. The Attorney General should be reprimanded and required to correct this practice.

Clearly, the prison mail systems' serial noncompliance with known legal mail handling requirements and policies is constitutionally defective, since Ms. Galletta should have known the rules for legal mailing were defective. A case number can only be provided by the U.S. Supreme Court after the petition is received in the mail. Further, changing this practice to prevent further injury does not remove the ~~fact of~~ non-compliance, the non-mailing of the petition.

When a court has to suspend or excuse rule compliance, and that action is caused by prison staff failures, the suspension or correction becomes prime ~~fact~~ evidence of injury having occurred, which required rule suspension or correction. Prison staff's actions are not the court's responsibility, but protecting the rights of inmates is. When a court has to correct prison

STAFFS ACTIONS, EVIDENCE IS OBVIOUS THAT IMPROPER ACTION BROKE THE CONSTITUTIONAL RULES OF FILING due process. PRISON'S STAFF MUST THEREFORE BE COMPELLED TO COMPLY WITH THE RULES THROUGH COURT DECLARATION.

THIS COURT, IN THE INTEREST OF JUSTICE, FOR CAUSE SHOWN, SUSPENDED THE RULES SO THAT UNCONSTITUTIONAL DELAY AND HARASSMENT COULD BE CORRECTED, AND APPELLANTS CLAIMS COULD BE FILED.

IF NO UNCONSTITUTIONAL ACTION OCCURRED, THE RULES WOULD HAVE NO NEED TO BE SUSPENDED. EXHIBITS #24 + 25.

FINALLY, ON PAGE 8 APPELLEES BRIEF, # II, APPELLEE CLAIMS, THAT "UNSPECIFIED STATEMENTS" WERE MADE THAT PRISON STAFF LT. MARC PUCKETT MADE A FALSE STATEMENT IN THE GRIEVANCE PROCESS.

THE COURT WAS PROVIDED THE GRIEVANCE IN ITS ENTIRETY, AND IT SHOWS THAT THE



STATEMENT MADE BY LT. PUCIETTI THAT IT WAS AN ADMINISTRATIVE decision based upon the closing of the Timpnagoos facility, that necessitated Appellants move, not retaliation as claimed. That statement was clearly challenged as being false, and prison staff grievance personnel knew the closing moves didn't begin until over a month later. (AT the same time the grievance was being processed) THIS claim was NOT DENIED by prison staff, or respondent, AT ANY time, and the false statement WAS ALLOWED TO BE PRESENTED TO THE COURT. THE closing of that facility, AND the date of the moves, IS AVAILABLE TO ALL prison staff, and TO THE Attorney General. BOTH the Prison Administration AND the Attorney General should have known this report was false, yet they still submitted it to be relied upon.

8912

Filing a false report in an official proceeding is a felony violation of obstruction of justice, and ignorance of that false report is not an affirmative defense when the report is available, and has been challenged. Failure to scrutinize the report contained in a government office and in the possession of government officers does not remove the obligation of presenting truthful statements to the court.

Further, the Attorney General's statements in their brief clearly assert false claims as well as 1- on page 7, line 15 (last paragraph) they state that petitioners ... non compliance ... caused the delays."

This is a bald lie. The exhibits in the petition provide a prime face case and evidence that the prison policies caused the delays.

9712

Appellants only compliance  
was in accord to the  
Rules set by the prison.  
See Exhibit 5

Further, holding Appellant  
responsible for assigning  
a U.S. Supreme Court Case  
Number is both bad faith  
and false claiming, in an  
official process. See the  
Exhibits #22, #23 for prison  
mail room denials + forms.

Finally, Appellees assertion on  
page 8 that "a continuing  
denial of forms and retaliatory  
actions for seeking grievances  
and legal remedies", makes  
only general statements in  
support. Appellee ignores  
the 31 exhibits in the petition  
and calls them general statements.  
Their dates and sequences of  
events establishes retaliation  
and continued harassment and  
denials over a 6 month period.

Retaliation has been sworn to.  
This is not a "general statement".

## Conclusion

Appellant Asserts That All  
Actions of The District Court  
Judge, And His Determinations,  
are Not Correct. This Court  
Has The Duty To Decide, After  
Reviewing The Evidence, If  
Appellant's Assertions are Correct.

Appellee Admits That The  
Petition Is Insufficient And  
"leaves critical elements of his  
claims unestablished" pg. 9, Brief.  
And That The Court Dismissed  
For This Reason.

Adequate Access To The Courts  
Has Been Ruled, And The  
Claims Dismissed For Failure  
To State A Claim.

The merits were ruled non-  
frivolous.

Utah State Prison's Access  
Program Is Not Sufficient  
Nor Adequate.

Appellant has suffered injury.

11/12

He could not succeed in  
filing a sufficient filing on  
a non-frivolous claim.

This court should provide  
remedy as it deems proper  
to correct this.

This court should provide  
remedy for relief from  
retaliation and false reports.

Respectfully Submitted,

8/22/05

WJH Sherrill

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I certify I mailed a copy of this  
document to Nancy Kemp, Air Gen.  
AT 160 E. 300 So. 5<sup>th</sup> floor, S.C.C.  
WA-84114-0857 on the day of  
August, 2005

WJH Sherrill